



Public Health Professionals Gateway

Public Health Law News

September 2020



Public Health Law Program
Center for State, Tribal, Local, and Territorial Support
Centers for Disease Control and Prevention

Subscribe to *Public Health Law News* 

Letter from the Editor

The Public Health Law Program (PHLP) thanks Hannah Bunting for her work on the June, July, August, and September editions of the *Public Health Law News*. Ms. Bunting, an MPH candidate at Emory University's Rollins School of Public Health, was the lead intern researching and writing the *News* and was assisted by:

- Natalie Vawter, MPH candidate at the University of California, San Diego's Herbert Wertheim School of Public Health and Human Longevity Science
- Brianne Schell, JD/MA candidate at the Ohio State University's Moritz College of Law and John Glenn College of Public Affairs
- Emma Scielzo, senior at Holton-Arms High School in Maryland

PHLP is honored to work with such professional, creative, and dedicated public health and law students. We hold them in highest regard and wish them every success in their future endeavors.

F. Abigail Ferrell, JD, MPA
Editor in Chief

COVID-19 Tools and Information

Morbidity and Mortality Weekly Report (MMWR) About COVID-19 Stay-at-Home Orders

The CDC COVID-19 emergency response and Public Health Law Program have systematically reviewed **state and territorial mandatory stay-at-home orders** and how such orders were associated with increases or decreases in population movement, both within and across jurisdictional borders. [Read the new MMWR report.](#)

Impact of Opening and Closing Decisions by State

This recently updated timeline from Johns Hopkins University shows how social distancing measures across states and times might have influenced trends in COVID-19 cases and deaths. The timeline shows the major infection control measures closings and re-openings states undertook after the first COVID-19 cases appeared in the United States, along with the number of new cases and deaths in each state over the same time period. [View the timeline](#) .

Announcements

New Emergency Preparedness Training: LEEP

The CDC Public Health Law Program, within the CDC Center for State, Tribal, Local, and Territorial Support (CSTLTS) recently released a new **Law and Epidemic Emergency Preparedness (LEEP) online training**. LEEP is a free, self-paced, e-learning course that helps improve understanding of the use of law during a large-scale communicable disease response. The training covers the legal underpinnings of emergency preparedness and response systems, which actions are authorized, and how to minimize legal barriers to an effective large-scale communicable disease response. (For a webinar about LEEP, see below.) [Check out the LEEP training.](#)

Webinar: Introduction to LEEP Online Training

Learn more about the new LEEP online training by joining this webinar on **September 22 at 2:00–3:00 pm (EDT)**. Facilitators will cover LEEP goals and objectives, demonstrate how to navigate the course modules, and provide examples of how the course could be practically applied in practice. This webinar will be hosted by staff from the CDC Public Health Law Program and the National Association of County and City Health Officials. [Registration is required.](#) .

Webinar Series: Legal Preparedness for Public Health Emergencies

The National Governors Association, in collaboration with CDC and the American Bar Association, have launched a four-part webinar series on equity and policy preparedness during public health emergencies. Participants will consider lessons learned from past public health emergencies to inform their implementation of best practices for the future. [Register and learn more about each webinar.](#) .

Now Accepting Applications for NLAPH

The National Leadership Academy for the Public's Health (NLAPH) gives leaders the **skills and training** to effectively respond to today's needs and challenges. CSTLTS has provided support and partnership to the Public Health Institute's Center for Health Leadership and Practice to launch and maintain NLAPH, which is now in its 10th year. NLAPH brings together leaders from diverse sectors—including health, housing, education, transportation, and law enforcement—to build their own capacity to transform their communities, improve health, and advance equity. **Applications are due by Friday, October 2.** [Here's how to apply.](#)

Tribal Announcements

Tribal Public Health Law Framework

Tribal history, culture, legal structure, and population health outcomes differ greatly from other US jurisdictions. The complexities of both **federal Indian law and emerging public health crises** establish a need to continue evaluating these issues in a systematic way. This recent article from the *Nevada Law Journal* presents a framework to improve understanding and engagement of tribal law. [Read the paper.](#) .

Blog Commentary: Welcome to the Maze: Race, Justice, and Jurisdiction in *McGirt v. Oklahoma*

In this blog commentary, author Elizabeth Reese reviews the historic ruling *McGirt v. Oklahoma* and its implications for non-Native Oklahomans. [Read the post](#)  and [learn about *McGirt v. Oklahoma*](#) .

Fact Sheet: Legal Requirements and Tools for Sharing Data with Police Departments to Prevent and Respond to Opioid Overdoses

The Network for Public Health Law recently published a fact sheet about several Michigan police departments' participation in the Families Against Narcotics Comeback Quick Response Team initiative. The purpose of this initiative is for community partners to collaborate across the community to **prevent and respond to opioid overdoses**. Partners include substance use treatment providers, recovery services, and peer and community support services. [View the fact sheet](#)  [PDF - 697KB] .

Top Stories

National: Trump administration strengthens COVID-19 surveillance with new reporting and testing requirements for nursing homes, other providers

The Centers for Medicare & Medicaid Services (08/25/2020)

Story Highlights

The Centers for Medicare & Medicaid Services is making regulatory changes that require nursing homes to test staff and offer testing to residents for COVID-19. Laboratories and nursing homes using point-of-care testing devices will be required to report diagnostic test results as required by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The new rules also require hospitals to provide COVID-19 cases and related data to the US Department of Health and Human Services.

California: Wildfires hasten another climate crisis: homeowners who can't get insurance

New York Times (09/02/2020) Christopher Flavelle

Story Highlights

As wildfires burn homes across California, the state is also grappling with a different kind of climate predicament: How to stop insurers from abandoning fire-prone areas, leaving countless homeowners at risk. Years of megafires have caused huge losses for insurance companies, a problem so severe that, last year, California temporarily banned insurers from canceling policies on some 800,000 homes in or near risky parts of the state. However, that ban is about to expire and cannot be renewed, and a recent plan to deal with the problem fell apart in a clash between insurers and consumer advocates.

[Editor's note: Read [CDC guidance on wildfire preparedness](#). Review [California Insurance Commissioner's](#)  resources.]

Briefly Noted

Alaska: Eviction protections, flexible landlords and assistance programs have helped keep Alaskans housed, but many still can't make rent

Anchorage Daily News (09/03/2020) Alex DeMarban

California: Free meals for most [San Francisco] students to return next week

San Francisco Examiner (09/05/2020) Ida Mojada

[Editor's note: Learn more about [school meals during the COVID-19 pandemic](#)  and [school nutrition and public health](#).]

California: Governor Newsom signs statewide COVID-19 tenant and landlord protection legislation

Office of Governor Newsom (08/31/2020)

[Editor's note: Read [California's Assembly Bill no. 3088](#) , which was signed by Governor Newsom on August 31, 2020.]

Maine: Maine hits snag in effort to distribute pandemic aid to seafood industry

Press Herald (09/03/2020) Penelope Overton

[Editor's note: Learn more about CARES Act funding and the [National Oceanic and Atmospheric Administration's support](#)

for fisheries during the COVID-19 pandemic [↗](#).]

Michigan: [Whitmer: Indoor and outdoor sports allowed; Michigan gyms can reopen](#) [↗](#)

The Detroit News (09/03/2020) Beth LeBlanc and Candice Williams

[Editor's note: Read Michigan Executive Orders Nos. [175](#) [↗](#) and [176](#) [↗](#).]

National: ['Historic' CDC order bans evictions through the end of the year. Here's what to know](#) [↗](#)

CNBC (09/03/2020) Alicia Adamczyk

[Editor's note: Read [CDC's Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19](#) [↗](#).]

National: [Pharmacists can give childhood shots, U.S. officials say](#) [↗](#)

Associated Press News (08/19/2020) Mike Stobbe

[Editor's note: Read [HHS expands access to childhood vaccines during the COVID-19 pandemic](#) [↗](#).]

National: [When the world shut down, they saw it open](#) [↗](#)

The New York Times (08/24/2020) Zoë Beery

Global Public Health Law News

Australia: [Lessons from remote Australia for the pandemic age](#) [↗](#)

The New York Times (09/04/2020) Isabella Kwai

Russia: [Russia publishes virus vaccine results, weeks after approval](#) [↗](#)

Associated Press News (09/04/2020) Daria Litvinova and Maria Cheng

Wales: [Coronavirus: Tourist 'seething' after Wales quarantine changes](#) [↗](#)

BBC (09/04/2020)

Public Health Law Feature: Legal Epidemiology as the 2020 Tool

By Hannah Bunting, Public Health Law Intern, Public Health Law Program

2021 MPH Candidate, *Emory* University, Rollins School of Public Health

Stay-at-home orders are a community mitigation strategy widely used among states, tribes, and territories to control the spread of COVID-19 in the United States. The orders operate on the idea that having citizens stay home will limit person-to-person interaction and transmission of the virus. Since March, stay-at-home orders have been issued across 42 states and territories. But how effective are these stay-at-home orders in keeping Americans at home?

The answer might be found through a growing area of public health: [legal epidemiology](#) [↗](#). Legal epidemiology observes a law as an *event* within a jurisdiction and follows population health outcomes over time to study the law's effects. While select statutes and regulations have been surveyed over many years, the release of executive orders since March 2020 has yielded an unprecedented opportunity to study reactive policies as a "pathogen" in themselves. "In emergency response and preparedness, we always want to be ready for the crisis before it happens," said Amanda Moreland, staff attorney with CDC's Public Health Law Program (PHLP), within the Center for State, Tribal, Local, and Territorial Support. "But with something like COVID-19, we're learning about the disease *as* we're responding to it. Stay-at-home orders may serve the same function as quarantine and isolation, but they're widespread, state-led interventions aimed at an entire population. We've never seen that before. It's a very different type of policy to consider."

Tracking the deluge of executive orders that began in March 2020, a collaborative research group from PHLP, the CDC COVID-19 Response Team, Mitigation Policy Analysis Unit, and the Georgia Tech Research Institute evaluated their effects in a [recent CDC study](#). Researchers analyzed changes in population movement relative to stay-at-home orders by all 50 states, DC, and 5 US territories., coding each one by their signed date, effective date, expiration date, their exact terms

(e.g., mandatory or advisory), and whether they applied statewide or to specific counties. They compared these orders with *population movement data*, estimated through personal device data from public, anonymous databases—like this one from [SafeGraph](#) —that report how frequently personal electronic devices are moved away from their “homes” (i.e., where they rest at night). By comparing a county’s population movement before and after an executive order, researchers watched to see if people slowed down and began staying at home.

The results were interesting. The 42 states and territories that issued mandatory stay-at-home orders between March 1 and May 31 had a statistically significant decrease in mobility. The study found statistically significant decreases in mobility nationwide (across 90% of the nation’s 3,141 counties and county equivalents) following the very first stay-at-home order of the response, issued in California on March 19, 2020. This second finding suggests that widespread *publicity* of a law or legal action may influence public perceptions and behaviors far beyond its intended audience. One of the datasets from the study is now [publicly available](#).

As with everything in the COVID-19 response, the study required a team of inter-disciplinary experts. Coders, quality assurance checkers, database and protocol managers, and public health attorneys formed the research team led by Gregory Sunshine, PHLP staff attorney and lead of the Mitigation Policy Analysis Unit. Sunshine has been a long-time proponent of legal epidemiology in emergency responses.

“This is not our first time evaluating executive orders,” said Sunshine. “We’ve successfully applied this method to executive orders and emergency declarations for hurricanes, influenza, and [West Nile virus](#)  [PDF – 379KB]. But what has made COVID-19 different is the *scale*.”

The scale of this pandemic is certainly larger than previous emergency responses and the time constraints the team has worked under are more extreme. Collectively, the team of 16 researchers has logged more than 6,880 hours on the COVID-19 response.

“We’re demonstrating the utility of doing good legal epidemiology work and showing that you can do it in a crisis-context and still get good quality results,” said Sunshine.

Since its inception, legal epidemiology has been used to inform health, fiscal, administrative, social, and political research and discourse. It can add dimension to research studies, funding opportunities, and policy agendas. Now it’s being applied as a tool in the immediate response. “Most laws are passed with certain intent to effect health outcomes,” said Rachel Hulkower, with the Mitigation Policy Analysis Unit. “Legal epidemiology studies will hopefully help lawmakers and decision-makers actually achieve the intent that they have by providing them first with the evidence base.”

Legal epidemiology has proven useful in retrospectively evaluating long-term health outcomes but is finding a new prospective application in evaluating and understanding the nuances of the COVID-19 pandemic. Looking ahead in this, or any future public health crises, legal epidemiology is proving to be a new and valuable tool in the public health emergency preparedness toolbox. “The law is in everything that we do as citizens,” said Russell McCord, PHLP staff attorney. “That’s the core of legal epidemiology. It affects lives on a macro-scale. From it, we hope that the public health community will understand the policy framework that surrounds their interventions and research in the future.”

Court Filings and Opinions

Florida: A Florida court overturned the Florida Education Commission’s emergency order requiring schools to open for in-person instruction by the end of August. Plaintiffs—parents and the state’s largest teachers’ union—filed suit, claiming the Education Commission’s order violated provisions in Florida’s Constitution. The court agreed with plaintiffs, finding the order “unconstitutional to the extent that it arbitrarily disregards safety, denies local school boards’ decision making with respect to reopening brick and mortar schools, and conditions funding on an approved reopening plan with a start date in August.”

[Florida Education Association, et al. v. DeSantis and Bellefluer v. DeSantis](#)  [PDF – 6.21MB] 

In the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida, Circuit Civil Division

Case Nos. 2020 CA 001450 and 2020 CA 001467

Filed August 24, 2020

Opinion by Judge Charles Dodson

Federal: A federal judge sided with Louisiana Governor John Bel Edwards in a lawsuit brought by 10 bar owners who argued that closing their businesses to prevent the spread of COVID-19 violated their constitutional rights. The court ruled that the plaintiff bar owners failed to prove the closure of their establishments “had no real or substantial relation to the goal of slowing the spread of COVID-19” or that the closure was “beyond all question a violation” of their constitutional rights.

[4 Aces Enterprises, LLC, et al. v. Bel Edwards, et al.](#)  [PDF – 448KB] 

United States District Court for the Eastern District of Louisiana

Case No. 20-2150

Filed August 17, 2020

Opinion by US District Judge Martin L. C. Feldman

Federal: A group of Tennessee prison inmates recently lost their appeal in a Sixth Circuit class action suit alleging deliberate and unconstitutional indifference to their medical needs.

In 2016, the Tennessee Department of Corrections began providing direct-acting antiviral medications to inmates with advanced hepatitis C. The treatment was highly effective but also quite expensive, averaging between \$13,000 and \$32,000 per course at the time of the program’s initiation. As a result, the antiviral agents were given only to inmates with significant liver scarring or other serious medical indicators. Inmates who were denied the medication filed a class action suit against the Department of Corrections’ Medical Director and Commissioner, alleging deliberate indifference to their medical needs in violation of the Eighth Amendment. The District Court granted judgment in favor of the defendants in 2019.

On appeal, the Sixth Circuit court affirmed the lower court’s ruling, stating that the Medical Director’s withholding of treatment did not amount to a reckless or malicious disregard of the inmates’ well-being. In contrast, the Court held that “the [inmates] in essence demand [the Medical Director] spend money he did not have.”

[Atkins v. Parker](#) 

United States Court of Appeals, Sixth Circuit

Case No. 19-6243

August 24, 2020

Raymond M. Kethledge, Circuit Judge

Quiz Question: September 2020

What month is National Preparedness Month?

Be the first reader to correctly answer the quiz question and you will be mentioned in the next edition of the *Public Health Law News*. Email your entry to PHLawProgram@cdc.gov with “PHL Quiz” as the subject heading (entries without the heading will not be considered).

August 2020 Quiz Winner

Question: Which European country has been hardest hit by the COVID-19 pandemic, with more than 302,000 infections and 45,900 recorded deaths as of a report on July 28, 2020?

Answer: The United Kingdom

Winner: Tracy P. Green

Quote of the Month

“It’s been an opportunity to let people see: Here we are, we have the expertise, we have the knowledge, we have all the things to make your programs, your offices, better,” Andraea LaVant, a disability inclusion consultant in Tempe, Arizona, of how remote work and virtual events during the COVID-19 pandemic have improved life for many people living with

disabilities.

[Editor's note: This quote is from the above article [When the world shut down, they saw it open](#) , The New York Times (08/24/2020) Zoë Beery.]

About *Public Health Law News*

The *Public Health Law News* is published the third Thursday of each month except holidays, plus special issues when warranted. It is distributed only in electronic form and is free of charge.

The *News* is published by the Public Health Law Program in the Center for State, Tribal, Local, and Territorial Support.

Subscribe!

Subscribe to *Public Health Law News* or [access past issues](#). To make comments or suggestions, send an email message to PHLawProgram@cdc.gov.

Disclaimers

Public Health Law News (the *News*) content is selected solely on the basis of newsworthiness and potential interest to readers. CDC and HHS assume no responsibility for the factual accuracy of the items presented from other sources. The selection, omission, or content of items does not imply any endorsement or other position taken by CDC or HHS. Opinions expressed by the original authors of items included in the *News*, persons quoted therein, or persons interviewed for the *News* are strictly their own and are in no way meant to represent the opinion or views of CDC or HHS. References to products, trade names, publications, news sources, and non-CDC websites are provided solely for informational purposes and do not imply endorsement by CDC or HHS. Legal cases are presented for educational purposes only, and are not meant to represent the current state of the law. The findings and conclusions reported in this document are those of the author(s) and do not necessarily represent the views of CDC or HHS. The *News* is in the public domain and may be freely forwarded and reproduced without permission. The original news sources and the *Public Health Law News* should be cited as sources. Readers should contact the cited news sources for the full text of the articles.